

§ 30.34

(1) Immediately terminate the use of any administrative collection activities to collect the debt;

(2) Advise Justice of the collection activities utilized to date, and their result; and

(3) Refrain from having any contact with the debtor and direct all debtor inquiries concerning the debt to Justice.

(e) After referral of a debt under this subpart, the Secretary shall immediately notify the Department of Justice of any payments credited by the Department to the debtor's account. Pursuant to 31 CFR 904.1(b), after referral of the debt under this subpart, Justice shall notify the Secretary of any payment received from the debtor.

§ 30.34 Claims Collection Litigation Report.

(a)(1) Unless excepted by Justice, the Secretary will complete the CCLR, accompanied by a signed Certificate of Indebtedness, to refer all administratively uncollectible claims to the Department of Justice for litigation.

(2) The Secretary shall complete all of the sections of the CCLR appropriate to each debt as required by the CCLR instructions, and furnish such other information as may be required in specific cases.

(b) The Secretary shall indicate clearly on the CCLR the actions that the Department wishes Justice to take with respect to the referred debt. The Secretary may indicate specifically any of a number of litigation activities which Justice may pursue, including enforced collection, judgement lien only, renew judgement lien only, renew judgement lien and enforced collection, program enforcement, foreclosure only, and foreclosure and deficiency judgement.

(c) The Secretary also shall use the CCLR to refer a debt to Justice for the purpose of obtaining approval of a proposal to compromise the debt, or to suspend or terminate administrative collection activity of the debt.

§ 30.35 Preservation of evidence.

The Secretary will maintain and preserve all files and records that may be needed by Justice to prove the Department's claim in court. When referring

45 CFR Subtitle A (10-1-08 Edition)

debts to Justice for litigation, certified copies of the documents that form the basis for the claim should be provided along with the CCLR. Upon its request, the original documents will be provided to Justice.

§ 30.36 Minimum amount of referrals.

(a) Except as in paragraph (b) of this section, claims of less than \$2,500 exclusive of interest, penalties, and administrative costs, or such other amount as the Attorney General may prescribe, shall not be referred for litigation.

(b) The Secretary shall not refer claims of less than the minimum amount unless:

(1) Litigation to collect such smaller amount is important to ensure compliance with the policies and programs of the Department;

(2) The claim is being referred solely for the purpose of securing a judgment against the debtor, which will be filed as a lien against the debtor's property pursuant to 28 U.S.C. 3201 and returned to the Department for enforcement; or

(3) The debtor has the clear ability to pay the claim and the Government effectively can enforce payment, with due regard for the exemptions available to the debtor under State and Federal law and the judicial remedies available to the Government.

(c) The Secretary should consult with the Financial Litigation Staff of the Executive Office for United States Attorneys in Justice prior to referring claims valued at less than the minimum amount.

PART 31—TAX REFUND OFFSET

Sec.

31.1 Purpose and scope.

31.2 Definitions.

31.3 General rule.

31.4 Certification and referral of debt.

31.5 Notice.

31.6 Review of Departmental records.

31.7 Review of a determination that a debt is past-due and legally enforceable.

AUTHORITY: 31 U.S.C. 3720A, 31 CFR 285.2, E.O. 12866, E.O. 13258.

SOURCE: 68 FR 70445, Dec. 18, 2003, unless otherwise noted.

Department of Health and Human Services

§ 31.2

§ 31.1 Purpose and scope.

(a) *Purpose.* This part prescribes the Department's standards and procedures for submitting past-due, legally enforceable debts to the Department of the Treasury for collection by tax refund offset.

(b) *Authority.* These standards and procedures are authorized under the tax refund offset provision of the Deficit Reduction Act of 1984, as amended by the Debt Collection Improvement Act of 1996, codified at 31 U.S.C. 3720A, and the implementing regulations issued by the Department of the Treasury at 31 CFR 285.2.

(c) *Scope.* (1) This part applies to all Departmental Operating Divisions and Regional Offices that administer a program that gives rise to a past-due non-tax debt owed to the United States, and to all officers or employees of the Department authorized to collect such debt. This part does not apply to any debt or claim owed to the Department of Health and Human Services by another Federal agency.

(2) Nothing in this part precludes the Department from pursuing other debt collection procedures, including administrative wage garnishment under part 32 of this title, to collect a debt that has been submitted to the Department of the Treasury under this part. The Department may use such debt collection procedures separately or in conjunction with the offset collection procedures of this part.

§ 31.2 Definitions.

In this part, unless the context otherwise requires:

Administrative offset means withholding funds payable by the United States (including funds payable by the United States on behalf of a State government) to, or held by the United States for, a person to satisfy a claim.

Day means calendar day. For purposes of computation, the last day of the period will be included unless it is a Saturday, Sunday, or a Federal legal holiday, in which case the next business day will be considered the last day of the period.

Debt or *claim* means an amount of money, funds, or other property determined by an appropriate official to be owed to the United States from any in-

dividual, entity, organization, association, partnership, corporation, or State or local government or subdivision, except another Federal agency.

Debtor means an individual, organization, association, partnership, corporation, or State or local government or subdivision indebted to the Government, or the person or entity with legal responsibility for assuming the debtor's obligation.

Department means the Department of Health and Human Services, and each of its Operating Divisions and regional offices.

Evidence of service means information retained by the Department indicating the nature of the document to which it pertains, the date of mailing of the document, and the address and name of the debtor to whom it is being sent. A copy of the dated and signed written notice of intent to offset provided to the debtor pursuant to this part may be considered evidence of service for purposes of this regulation. Evidence of service may be retained electronically so long as the manner of retention is sufficient for evidentiary purposes.

FMS means the Financial Management Service, a bureau within the Department of the Treasury.

IRS means the Internal Revenue Service, a bureau of the Department of the Treasury.

Legally enforceable means that there has been a final agency determination that the debt, in the amount stated, is due and there are no legal bars to collection action.

Operating division means each separate component, within the Department of Health and Human Services, including, but not limited to, the Administration for Children and Families, Administration on Aging, the Centers for Disease Control and Prevention, the Centers for Medicare & Medicaid Services, the Food and Drug Administration, the National Institutes of Health, and the Office of the Secretary.

Past-due debt means a debt which the debtor does not pay or otherwise resolve by the date specified in the initial demand for payment, or in an applicable written repayment agreement or other instrument, including a post-delinquency repayment agreement.